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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,458	05/21/2001	Wilhelm Lohrey	SWR-0039	2525

23413 7590 08/26/2003

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EXAMINER
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WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1761

10

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-10

# Office Action Summary

Application No.

09/787458

Applicant(s)

LOHREY ET AL

Examiner

S. WEINSTEIN

Group Art Unit

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— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 6/11/03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 22-30 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 22-30 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 22-30 are rejected under 35 U.S.C. 112, first paragraph, for containing New Matter. The independent claims now recite that the chambers are connected to opposite sides of the suspension unit at a common edge so that the suspension unit is lying between the chambers. Applicants do not provide any support for this new language and it does not appear that the specification necessarily and inherently supports this language. For example, one could still have a suspension unit lying between two chambers, but the two chambers could be joined to each other and the suspension unit joined to an opposite side of one of the chambers. Claim 30 is also seen to contain New Matter. It does not appear that the specification discloses that the bottom sides of the chambers are releaseably connected.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 21, 24-26, 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welin-Berger (G.B. 962038) in view of Bonne et al (4,844,914), Romagnoll (4,828,851), Irmscher (3,053,665), and Welin-Berger (3,223,229), further in

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view of Liu et al (5,047,252), Barnett (2,359,292), General Foods (EP 574,152) and Andrus (2,072,976).

The independent claims now recite that the two chambers are connected to opposite sides of the suspension unit. The primary reference Welin-Berger (GB '038) on page 3, column 1, states that the two chambered infusion device has two compartments each of which has walls interconnected at one edge where a flap with a string according to Fig. 1 may be provided. However, Welin-Berger ('038) does not show a string in Figures 3-5 so that if he intended to have a string according to Fig. 1, this means the string is buried between two portions of flap. Thus, based on the figures and the specification, Welin-Berger ('038) either does not have a string, only a flap, or the string is buried in the flap. In both cases, the two chambers would have to be attached to opposite sides of the suspension unit by being attached to opposite sides of the flap (2), or, if there is a string, to opposite sides of a piece of string sticking out of the flap. Note that Figures 3-5 show the flap 2 in direct connection with the chambers with no indication of a string (4). In any case, as evidenced by Bonne et al, Barnett, General Foods and Andrus, the art is replete with examples of infusion type packages being attached to broad, suspension units, and to modify Welin-Berger ('038) and provide the chambers in direct contact with a suspension unit tab for its art recognized and applicants' intended function would have been obvious. In regard to claim 30, Romagnoll discloses one can releasably connect chambers together and to modify the combination and releasably connect chambers, for example, for a more compact shape in storage would have been obvious.

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Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 22 above, and further in view of Rambold ('599) for the reasons given in Paper No. 8.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 22 above, and further in view of Tremaine (GB '151) for the reasons given in Paper No. 8.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 22 above, and further in view of Barnett ('505) and Graves ('439) for the reasons given in Paper No. 8.

Applicants' remarks filed June 11, 2003, Paper No. 9 have been fully and carefully considered but are seen to be moot in view of the new ground of rejection necessitated by the amendment.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is (703) 308-0650. The examiner can generally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

S. Weinstein/dh  
August 20, 2003

  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761  
8/26/03